

**NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)
CATEGORICAL EXCLUSION (CX) COMPLIANCE AND DECISION RECORD
U.S. Department of Interior (DOI)
Bureau of Land Management (BLM)**

NEPA Document Number: DOI-BLM-AZ-P010-2012-037-CX

A. Background

BLM Office: **Hassayampa Field Office (AZP010)**

Lease/Serial/Case File No.: **AZA-33817**

Proposed Action Title/Type: **Yavapai County Public Works Department Road Right-of-Way (ROW)**

Location of Proposed Action: **Gila & Salt River Meridian, Maricopa County, Arizona**
 T. 8 N., R. 1 W.,
 Sec. 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$,
 Sec. 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, Lots 2, 3;

 T. 9 N., R. 2 W.,
 Sec. 25, SE $\frac{1}{4}$;
 containing 10.38 acres, more or less.

Description of Proposed Action: The proposed action is to grant authorization for the use, operation and maintenance of Upper French Creek Road (AZA-33817) on Bureau of Land Management (BLM) land. The road, also known as UT Ranch Road, is thought to predate statehood and is located in Yavapai County. This widely used road connects Cow Creek Road and Walker Gulch Road by crossing BLM, state, and private lands intermittently.

Access to the site exists via Cow Creek and Walker Gulch roads which connect, on each side of Upper French Creek Road. If authorized, the ROW would be issued for a term of 30 years with the right to renew.

B. Land Use Plan Conformance

Land Use Plan Name: **Bradshaw-Harquahala Record of Decision and Approved Resource Management Plan**

Date Approved/Amended: **April 2010**

☐ The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision(s):

☒ The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decision(s) (objectives, terms, and conditions):

This action has been reviewed for conformance, with the Bradshaw-Harquahala Resource Management Plan (RMP) with respect to the Code of Federal Regulations (CFR) (43 CFR

1610.5) and BLM Manual 1601.04 C.2. It has been determined that the proposed action does comply with the objectives, terms, and conditions of the RMP. Specifically, this type of action is provided for in Lands and Realty Management, Land Use Authorizations LR-24 which states,

“Continue to issue land use authorizations (right-of-way, leases, permits, easements) on a case-by-case basis and in accordance with resource management prescriptions in this land use plan.”

C. Compliance with NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA), in accordance with the list of DOI-wide categorical exclusions located in 516 DM 11.5 or 516 DM Chapter 2, Appendix 1.

The Departmental Manual [516 DM 2.3 (A)(3) and 516 DM, Appendix 2] requires that before any action described in the list of categorical exclusions is used, the exceptions (located in Attachment 1) must be reviewed for applicability and, in each case, must result in no extraordinary circumstances.

In this case, the use of a categorical exclusion is appropriate because there are no extraordinary circumstances which may have significant effects on the environment. Considerations of all aspects of this document were taken and no potential for significant impacts were found. In other words, the proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM Chapter 2 or 516 DM 11.5 apply.

Justification for the use of a CX, for this action, resides in 516 DM Chapter 6 Appendix 5 Section 5.4 (E)(9) as well as BLM NEPA Handbook (H-1790-1) Appendix 4, (E)(16) which states,

“Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.”

D. Terms and Conditions

Mitigating measures have been incorporated in the grant as terms and conditions. A list of all mitigating measures are located in the attached document (Appendix A) entitled Mitigating Measures.

E. Signature

Authorizing Official: /S/ Rem Hawes Date: 5/7/2013
(Signature)

Name: D. Remington Hawes
Title: Hassayampa Field Manager

F. Contact Person

For additional information concerning this CX, contact Hillary Conner, Realty Specialist, at 623-580-5649, BLM, Hassayampa Field Office, 21605 N. 7th Avenue, Phoenix, Arizona 85027.

Note: A separate decision document must be prepared for the action covered by the CX. See Attachment 2.

Attachment 1

EXTRAORDINARY CIRCUMSTANCES REVIEW AND CHECKLIST		
<p><i>IMPORTANT: Appropriate staff should review the circumstances listed below, and comment for concurrence. Rationale supporting the concurrence should be included where appropriate.</i></p>		
EXTRAORDINARY CIRCUMSTANCES	YES/NO & RATIONALE (If Appropriate)	STAFF
Does the proposed action...		
1. Have significant impacts on public health and safety?	N	HC
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	N	HC, CC, CM, MS, JH
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	N	HC, CC, CM, MS, JH
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	N	HC, CC
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	N	HC
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	N	HC, CC, CM, MS, JH
7. Have significant impacts on properties listed or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?	N	CM
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	N	HC, CC
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	N	HC, CC, CM, JH
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	N	HC
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)?	N	HC, CM
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?	N	HC, CC

HC = Hillary Conner

CC = Codey Carter

CM = Christopher McLaughlin

MS = Mary Skordinsky

JH= James Holden

Approval and Decision

Attachment 2

Compliance and assignment of responsibility: Lands & Realty Department

Monitoring and assignment of responsibility: Lands & Realty Department

Review: *We have determined that the proposal is in accordance with the categorical exclusion criteria and that it would not involve any significant environmental effects. Therefore, it is categorically excluded from further environmental review.*

Prepared by: /S/ Hillary Conner **Date:** 4/30/2013

Hillary Conner
Project Lead

Reviewed by: /S/ Leah Baker **Date:** 5/2/2013

Leah Baker
Planning & Environmental Coordinator

Reviewed by: /S/ Jim Andersen **Date:** 4/30/2013

Jim Andersen
Lead Realty Specialist

Project Description:

Paste Project Description here

Decision: Based on a review of the project described above and field office staff recommendations, I have determined that the project is in conformance with the land use plan and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed, with the following mitigating measures listed in Appendix A.

Approved By: /S/ Rem Hawes **Date:** 5/7/2013

D. Remington Hawes, Field Manager

APPENDIX A

Mitigating Measures

1. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800 and regulations to be promulgated by the Secretary of the Interior pursuant to Public Law 94-579.
2. Upon grant termination by the authorized officer (AO), all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the AO.
3. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the AO at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way (ROW) or permit granted herein may be reviewed at any time deemed necessary by the AO.
4. The stipulations, plans, maps, or designs set forth in Exhibits A-1 and A-2 (Land Status Map for AZA-33817) and Exhibit B (Enlarged Route Map), attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
5. The holder shall avoid all tortoises when carrying out maintenance. If tortoises must be moved out of harm's way, they are to be moved according to the Arizona Game and Fish Department's "Guidelines for Handling Sonoran Desert Tortoises Encountered on Development Projects" listed in Exhibit C.
6. Failure of the holder to comply with applicable law or any provision of this ROW grant or permit shall constitute grounds for suspension or termination thereof.
7. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
8. In the event that the public land underlying the ROW encompassed in this grant or a portion thereof, is conveyed out of Federal ownership and administration of the ROW or the land underlying the ROW is not being reserved to the U.S. in the patent/deed and/or the ROW is not within a ROW corridor being reserved to the U.S. in the patent/deed, the U.S. waives any right it has to administer the ROW, or portion thereof, within the conveyed land under Federal laws, statutes, and regulations, including the regulations at 43 CFR Part (2800)(2880), including any rights to have the holder apply to BLM for amendments, modifications, or assignments and for BLM to approve or recognize such amendments, modifications, or assignments. At the time of conveyance, the patentee/grantee, and their successors and assigns, shall succeed to the interests of the U.S. in all matters relating to the ROW, or portion thereof, within the conveyed land and shall be subject to applicable State and local government laws, statutes, and ordinances. After conveyance, any disputes concerning compliance with the use and the terms and conditions of the ROW shall be considered a civil matter between the patentee/grantee and the ROW holder.

9. The ROW reserves to the Secretary of the Interior, or lawful delegates, the right to grant additional ROW, leases, permits, or easements for compatible uses over, under, within or adjacent to the lands involved in this grant.
10. The holder shall confine all vehicular traffic and activities associated with the maintenance, operation, and termination of the ROW within the authorized limits of the ROW, except as provided below, or unless otherwise authorized in writing by the AO.
11. The holder shall not initiate any additional construction, maintenance, or other surface disturbing activities on the ROW, other than what is authorized, without prior written authorization from the AO.
12. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.
13. The holder of ROW No. AZA-33315 agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the ROW (unless the release or threatened release is wholly unrelated to the ROW holder's activity on the ROW. This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
14. The holder of this ROW grant or the holder's successor in interest shall comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and the regulations of the Secretary of the Interior issued pursuant thereto.
15. Use of pesticides shall comply with the applicable Federal and state laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the AO written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the AO. Emergency use of pesticides shall be approved in writing by the AO prior to such use.
16. The holder shall inform the AO within 48 hours of any accidents on federal lands that require reporting to the Department of Transportation as required by 49 CFR Part 195.
17. The ROW herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the United States (U.S.), so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the U.S.

18. The holder shall comply with all Federal, State, and local regulations whether or not specifically mentioned within this grant.
19. Applicant is only authorized to use the additional 10 feet, on either side of the road, for maintenance (as needed).
20. Any exceptions to these requirements must have prior written approval from the AO. Please be advised that due to limits on the available time of qualified personnel, the unpredictability of wildlife, and future weather conditions, request for exceptions to impending wildlife stipulations will only be considered in the event of extraordinary and unavoidable occurrences over which the company has little or no control.
21. This ROW may be renewed. If renewed, the ROW will be subject to regulations existing at the time of renewal and such other terms and conditions deemed necessary to protect the public interest.